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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LEYDIG VOIT & MAYER, LTD			EXAMINER	
TWO PRUDENTIAL PLAZA, SUITE 4900			STAICOVICI, STEFAN	
180 NORTH STETSON AVENUE				
CHICAGO, IL 60601-6780			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 03/24/2004

(L)

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/017,830	CZIRAKY, DAVID A.	
	Examiner Stefan Staicovici	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 March 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 36-38 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12/07/2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/12/02; 3/21/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-35, drawn to a molding apparatus, classified in class 425, subclass 173.
 - II. Claims 36-38, drawn to a molding method, classified in class 264, subclass 299.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as pouring a liquified material in a pan and pouring said liquid material in a mold and curing said liquid material using heat to form a solid.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. John Augustyn on March 3, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 36-38 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

5. The information disclosure statement filed March 12, 2002 fails to comply in part with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because copies of the non-patent literature documents have not been provided. The IDS has been placed in the application file, but the information referred to therein as to the non-patent literature documents has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

6. The abstract of the disclosure is objected to because phrases than can be implied should be avoided. It is suggested to replace “disclosed” with --provided--. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-3, 20-21, 24, 26-33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Gillespie (US Patent No. 4,188,009).

Regarding claims 1-3 and 35, Gillespie ('009) teaches the basic claimed molding apparatus including, a base (11), a heating component (13), a melt pan (reservoirs) (15), a mold having an outer portion (20) and an inner portion (21) that is removable attached to said base using screws (25), a detachable top cover (12) attached to said base (11) that blocks access to said melt pan (15) and a mold halves (22, 23). It is submitted that said detachable top cover (12) is locked for a predetermined time that molten crayon material is being melted and poured into said mold to form a crayon.

In regard to claims 20-21, Gillespie ('009) teaches a light bulb (13) that is partially enveloped by metallic housing (12) (col. 2, lines 34-36 and Figure 1).

Specifically regarding claim 24, Gillespie ('009) teaches that said light bulb (13) is a 60 W incandescent bulb powered by a standard 110 V power source (col. 2, lines 35-40). It is submitted that a standard 110 V power source is a source of alternative current.

Regarding claims 26-32, Gillespie ('009) teaches a mold having a first mold half (22) and a second mold half (23) forming a molding cavity in the shape of a crayon (writing instrument), hence having a circular cross-section with a tapered top surface.

In regard to claim 33, Gillespie ('009) teaches that melt pan (15) has a plurality of channels (16) (sloping surfaces).

9. Claims 1, 4-9, 14 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Saffer *et al.* (US Patent No. 4,299,548).

Regarding claim 1, Saffer *et al.* ('548) teach the basic claimed molding apparatus including, a base (12), a heating component (86), a melt pan (54), a mold (44), a detachable top cover (14) attached to said base (12) that blocks access to said melt pan (54) and mold (44). Further, Saffer *et al.* ('548) teach that said detachable top cover (14) is locked for a predetermined time such that molten material is being melted and poured into said mold (see Figure 1).

In regard to claim 14, Saffer *et al.* ('548) teach that cover (14) has a lower lip (60) that fits into a recess (62) extending around the interior of the upper periphery of said base (12). Further, Saffer *et al.* ('548) teach that cover (14) also has a projecting forward portion (64) that covers mold (44) and slide (46) (see col. 3, lines 27-34).

Specifically regarding claims 4-6, Saffer *et al.* ('548) teach a melting position of the melting pan (54) and a pouring position into mold (44) as said melting pan (54) is rotated using linkage (42) (see Figure 1).

Regarding claim 7, Saffer *et al.* ('548) teach an aluminum melting pan (col. 4, line 43).

In regard to claims 8 and 9, Saffer *et al.* ('548) teach a clear cover (14) having a vent (38) (see col. 3, lines 23-25 and Figure 1).

Specifically regarding claim 33, Saffer *et al.* ('548) teach that said melt pan 954) includes a channel (see Figure 1) that allows pouring of molten material into said mold (44).

10. Claims 1-8, 10, 14-15 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebensfeld *et al.* (US Patent No. 5,954,115).

Lebensfeld *et al.* ('115) teach the claimed apparatus including, a base (12), an outer cover (14), a heating component (62), a mold (30), a melting pan (16) that is pivotally mounted to said

base (12) and a locking mechanism for locking said outer cover (14) (see col. 7, line 52 through col. 8, line 43).

Regarding claim 2, Lebensfeld *et al.* ('115) teach a mold having two components (30a, 30b).

In regard to claim 3, Lebensfeld *et al.* ('115) teach tabs (44) to attach the mold components (30a, 30b) to said base (12) (see col. 6, lines 23-56).

Specifically regarding claims 4-6, Lebensfeld *et al.* ('115) teach a melting position of the melting pan (16) and a pouring position into mold (30) as said melting pan (16) is rotated using crank (linkage) (63) (see Figure 1).

Regarding claim 7, Lebensfeld *et al.* ('115) teach a stainless steel melting pan (col. 7, line 37).

In regard to claims 8 and 10, Lebensfeld *et al.* ('115) teach that the clear outer cover (14) is pivotally attached to said base (12) (see Figure 1).

Regarding claims 14-15, Lebensfeld *et al.* ('115) teach a slotted wheel that operates a linkage for engaging a notch in locking said cover (14) (see col. 11, lines 49-65).

Specifically regarding claims 22-23, Lebensfeld *et al.* ('115) teach a tilt switch (74) that prevents switch (60) from being activated if the cover (14) is open. Further, Lebensfeld *et al.* ('115) teach a projecting tab (100) and an opening (102) (see col. 9, line 52 through col. 10, line 33).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 11, 16, 18 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie (US Patent No. 4,188,009), Saffer *et al.* (US Patent No. 4,299,548) or Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000).

Gillespie ('009), Saffer *et al.* ('548) or Lebensfeld *et al.* ('115) teach the basic claimed apparatus as described above.

Regarding claims 11, 16, 18 and 34, Gillespie ('009), Saffer *et al.* ('548) or Lebensfeld *et al.* ('115) do not teach a locking mechanism including a timer that controls the heating mechanism. It is noted that Lebensfeld *et al.* ('115) teach a locking mechanism that is controlled by the temperature inside the apparatus, hence teaches a control mechanism for the locking system. Lebensfeld ('000) teaches a molding apparatus including, a housing (12), an electric bulb heat source (50), a safety lid (70), a mold (80) and an automatic timer that controls the heating time (see col. 3, lines 48-55 and col. 4, lines 50-59). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an automatic timer as taught by Lebensfeld ('000) in the apparatus of Gillespie ('009), Saffer *et al.* ('548) or Lebensfeld *et al.* ('115) because, Lebensfeld ('000) teaches that a timer provides for improved process control, hence providing for an improved apparatus.

13. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Deal (US Patent No. 5,538,457).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claims 12 and 13, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a spring-operated timer having gears. However, a spring-operated timer having gears is well known in the art as evidenced by Deal ('457) which teaches a toy having a locking mechanism including a spring-operated timer having gears (see col. 8, lines 58-65). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a locking mechanism including a spring-operated timer having gears as taught by Deal ('457) in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, whereas Deal ('457) teaches that a spring-operated timer having gears is a well known locking mechanism used in toys, hence teaching simplicity of design for the resulting apparatus.

14. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Pirker (US Patent No. 3,625,197).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claim 19, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a timer having a cam. Pirker ('197) teaches a locking mechanism having a timer and a cam element (5) (see col. 4, lines 19-30). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a cam element as taught by Pirker ('197) in the locking mechanism in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because, Pirker ('197) teaches that such a mechanism provides for improved locking control by allowing one to make correction to the timer once the locking mechanism has been activated (see col. 3, lines 10-25).

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld *et al.* (US Patent No. 5,954,115) in view of Lebensfeld (US Patent No. 5,453,000) and in further view of Bechtiger (US Patent No. 4,224,814).

Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach the basic claimed apparatus as described above.

Regarding claim 17, although Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) teach a toy having a locking mechanism including an automatic timer, Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) do not teach a timer having an escapement mechanism. However, the use of an escapement in a timer mechanism is well known as evidenced by Bechtiger ('814) which teaches the use of an escapement mechanism in combination with a timer mechanism (see col. 5, lines 30-45). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an escapement mechanism as taught by Bechtiger ('814) in combination with the timer mechanism in the apparatus of Lebensfeld *et al.* ('115) in view of Lebensfeld ('000) because,

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Bechtiger ('814) specifically teaches that an escapement mechanism is well known to be combined with a timer mechanism in order to avoid oversetting the timer, hence providing for improved time control.

16. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie (US Patent No. 4,188,009) in view of Sanner (US Patent No. 4,293,899).

Gillespie ('009) teaches the basic claimed apparatus as described above.

Regarding claim 25, although Gillespie ('009) teaches a light bulb heating source powered by a 110 Volt power source, Gillespie ('009) does not teach the use of direct current. Sanner ('899) teaches that an incandescent light bulb may be powered by either alternating and direct current (see col. 3, lines 1-10). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a direct current as an equivalent alternative to alternating current as taught by Sanner ('899) to power the apparatus of Gillespie ('009) because, Sanner ('899) teaches that an incandescent light bulb may be powered by either alternating and direct current and also because a direct current power supply provides certain advantages such as reduced voltage levels, hence increased safety.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM. If

attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD


3/19/04
Primary Examiner

AU 1732

March 19, 2004